

## **DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
**ENERGY DIVISION**  
**E-5 ID #1941**  
**RESOLUTION E-3821**  
**April 17, 2003**

### **R E S O L U T I O N**

Resolution E-3821. Sierra Pacific Power Company (Sierra) submits tariff revisions to terminate the 10% discount for residential and eligible small commercial customers required under AB 1890. Denied.

By Advice Letter 295-E filed on January 20, 2003.

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### **SUMMARY**

This Resolution denies Sierra's proposed tariff revisions to terminate the 10% discount for residential and eligible small commercial customers required under AB 1890. Public Utilities Code (PU Code) section 368.5 does not permit residential and small business customer rates to be raised solely because the statutorily-mandated 10% rate reduction has expired.

### **BACKGROUND**

**AB 1890 changed the Public Utilities Code to include provisions that froze electric rates and gave a 10% bill credit to residential and small commercial customers.**

The implementation of AB 1890 required changes to the PU Code, including section 368(a). Section 368(a) required electric utilities to freeze rates at June 10, 1996 levels and provide a 10% bill credit to residential and small commercial customers as long as the rate freeze was in effect. Decision (D.)97-12-093 implemented PU Code section 368(a), and required Sierra to file a compliance advice letter.

**Sierra complied with D.97-12-093 in Advice Letter (AL) 255-E – reducing rates for residential and small commercial customers by 10%**

Sierra filed Advice Letter (AL) 255-E to provide a 10% bill reduction for residential and small commercial customers. AL 255-E met the requirement for residential customers by reducing the customer and energy charges by 10% (Schedules D-1, CARE, DS-1, DM-1, and DE). To meet the requirement for commercial customers, Sierra had to create a small commercial tariff, Schedule A-1, for small commercial customers with less than 20 kilowatts of service. Sierra set rates for schedule A-1 customers at a level 10% below what those customers had paid prior to approval of AL 255-E.

## **NOTICE**

Notice of AL 295-E was made by publication in the Commission's Daily Calendar. Sierra Pacific states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

## **PROTESTS**

Sierra's AL 295-E was not protested.

## **DISCUSSION**

Energy Division has reviewed AL 295-E. The relevant facts that lead to denial of this advice letter are discussed below.

**Sierra Pacific's advice letter request is consistent with its General Rate Case (GRC) filing.**

Phase II of Sierra's GRC application (A.01-06-041) proposes the termination of the 10% bill credit for residential and small commercial customers. ORA suggested that Sierra file this advice letter concurrently with the ongoing GRC proceeding.

**Sierra's GRC is the proper place to set rates for customer classes – this resolution does not prejudge the rate design component of the GRC.**

Rate design is handled in utility rate cases. This resolution maintains the current rates for residential and small commercial customers. The Commission may revise Sierra's rates as a result of its GRC.

**The fact that the date of March 31, 2002 has passed is not sufficient justification to raise rates – PU Code § 368.5 prohibits the Commission from raising rates solely through termination of the 10% rate reduction.**

AB 1890 and PU Code § 368(a) required the 10% rate reduction for residential and small commercial customers to end no later than March 31, 2002. Sierra's AL 295-E clearly relies on § 368(a) in its request to increase rates for residential and small commercial customers.

Subsequent to the Commission's decision implementing AB 1890, and PU Code § 368(a), the Legislature passed SB 85 2X (September 2001) establishing PU Code §368.5. PU Code §368.5 does not allow residential and small business customer rates to increase **solely** by terminating the 10% rate reduction. The text of PU Code §368.5(a) and §368.5(b) reads:

368.5 (a) Notwithstanding any other provision of law, upon the termination of the 10-percent rate reduction for residential and small commercial customers set forth in subdivision (a) of Section 368, the commission may not subject those residential and small commercial customers to any rate increases or future rate obligations solely as a result of the termination of the 10-percent rate reduction.

(b) The provisions of subdivision (a) do not affect the authority of the commission to raise rates for reasons other than the termination of the 10-percent rate reduction set forth in subdivision (a) of section 368.

Sierra's proposal filed in AL 295-E has not met the threshold set by PU Code §368.5. Therefore AL 295-E should be denied.

### **COMMENTS**

Public Utilities Code (PU) section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. The draft resolution was mailed to parties for comment pursuant to PU Code section 311(g)(1). No comments were filed.

**FINDINGS**

1. Sierra filed AL 295-E, requesting Commission authorization to increase rates for residential and small commercial customers due to the termination of the 10% rate reduction authorized by PU Code § 368(a).
2. No protests were received.
3. In implementing AL 255-E, Sierra established new rates for residential and small commercial customers.
4. PU Code §368.5 explicitly prohibits the Commission from increasing rates solely based on the termination of the 10% rate reduction.
5. The Commission may revise Sierra's rates as a result of its GRC (A.01-06-041).

**THEREFORE IT IS ORDERED THAT:**

1. Sierra Pacific Power Company Advice Letter 295-E requesting Commission authorization to terminate the 10% discount for residential and eligible small commercial customers is denied.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on April 17, 2003; the following Commissioners voting favorably thereon:

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WILLIAM AHERN  
Executive Director